

Attorney Docket No. P13148-US2

REMARKS/ARGUMENTS**1.) Claim Amendments**

The Applicant has added claim 35. Claims 14-16 and 20-32 have been previously canceled. Accordingly, claims 1-13, 17-19, and 33-35 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

2.) Claim Rejections – 35 U.S.C. § 102(e)

The examiner rejected claims 1-10, 12-13, 17-19 and 33-34 under 35 U.S.C. § 102(e) as being anticipated by Lopez-Torres (US 6,144,647). The Applicant respectfully traverses this rejection.

Claim 1:

For discussion purposes, claim 1 is reproduced below:

1. A method for exchanging multicall capabilities between user equipment and a network in a radiocommunication system comprising the steps of:
 - receiving, from said user equipment to said network, bearer limit information associated with said user equipment;
 - calculating, in said network, multicall limit information based on said bearer limit information associated with said user equipment and multicall information associated with said network; and
 - returning, to said user equipment, said multicall limit information.

As explained in the Applicant's amendment dated April 29, 2004, it is the Applicant's contention that Lopez-Torres does not teach the elements of "receiving, from said user equipment to said network, bearer limit information associated with said user equipment," and "calculating, in said network, multicall limit information based on said bearer limit information associated with said user equipment and multicall information associated with said network."

The examiner argues that the term "bearer limit information" is defined in the Applicant's specification at page 5, lines 5-6 as transfer mode, transfer rate, user

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protocol as these terms are used by Lopez-Torres. The Applicant respectfully asserts that the examiner may have misread the Applicant's specification.

The reference cited by the examiner is reproduced below:

The bearer limiting factors associated with terminal devices are, for example, introduced by the involved protocols, bandwidth restrictions on the involved interfaces, user settings, operator settings, etc. (Specification, page 5, lines 3-6).

Thus, it appears that the examiner may be interpreting this passage to mean the bearer limiting factors are defined to be the involved protocols, bandwidth restrictions on the involved interfaces, user settings, operator settings, etc. However, this interpretation is contrary to the plain language of the sentence. The sentence states that bearer limiting factors are introduced by the involved protocols, bandwidth restrictions on the involved interfaces, user settings, operator settings, etc. The sentence does not define the bearer limiting factors. As indicated by the plain language of the sentence, the sentence only indicates the source of the bearer limiting factors, but not the factors themselves.

The bearer limit information, therefore, is not "transfer mode, transfer rate, or user protocol" as stated by the examiner. Admittedly, Lopez-Torres does transfer "number of traffic channels required by the multi-dialogue." However, this is not bearer limit information. In fact, there is nothing in Lopez-Torres which indicates any consideration of the bearer limit information.

It also appears that the examiner is still maintaining that the term "mapping" is identical to the term "calculating" (Office Action, page 4, line 10). The examiner justifies his argument by stating that features upon which the Applicant relies are not recited within the rejected claims. However, it appears that the examiner may have misread the Applicant's previous arguments.

In contrast to the examiner's interpretation of the Applicant's argument, the Applicant is not relying on the specification for a definition of a term. The Applicant is only relying on the plain wording of the claim element of "calculating, in said network, multicall limit information based on said bearer limit information associated with said user equipment and multicall information associated with said network." In the previous

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response, the Applicant was only trying to use the specification as support and to point out to the examiner that there is a difference between the terms "mapping" and the "calculating." As previously argued, "mapping" is defined by several on-line glossaries and Newton's Telecom Dictionary is:

mapping - in network operations, the logical association of one set of values, such as addresses on one network, with quantities or values of another set such as devices on another network. (e.g., name-address mapping, internetwork-route mapping and protocol-to-protocol mapping.¹

The term "Calculation," on the other hand, means (1.a) to determine by mathematical processes, (1.b) to reckon by exercise of practical judgment (1.c) to solve or probe the meaning of; (2) to design or adapt for a purpose, (3) to judge to be true or probable.² Thus, claim 1 calculates or determines by a mathematical process the "multicall limit information based on said bearer limit information."

Assuming arguendo that "mapping" could somehow be equated to "calculating," Lopez-Torres still does not even consider bearer limit information in this calculating and certainly does not perform a calculation based on the "the bearer limit information." This element is simply not disclosed nor implied by Lopez-Torres. Therefore, it is respectfully submitted that Lopez-Torres does not teach the step of "calculating, in said network, multicall limit information based on said bearer limit information associated with said user equipment and multicall information associated with said network." Claim 1, therefore contains elements not found in Lopez-Torres. Consequently, the Applicant respectfully requests that the §102 rejection be withdrawn.

Claim 2:

Claim 2 states:

2. The method of claim 1, wherein said network includes a mobile switching center (MSC) and a radio network controller (RNC), each of which perform functions associated with radiocommunication support of said user equipment, said method further comprising the steps of:

¹ See Newton's Telecom Dictionary, 14th Edition (Attachment 1) or one of any numerous telecom glossary websites, such as <http://www.breakthrutraining.com/pages/glossary/m.php>.

² See Merriam-Webster On-line Dictionary at <http://www.m-w.com/cgi-bin/dictionary?book=Dictionary&va=calculating>, (Attachment 2).

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determining bearer limit information associated with said RNC; and
using said bearer limit information associated with said RNC to
calculate said multicall limit information.

The examiner maintains that Lopez-Torres discloses the step of "determining bearer limit information" (Lopez-Torres, col. 2, lines 45-57). The cited passage from Lopez-Torres is reproduced below:

The visitor location register VLR is a data base used by the PLMN to dynamically store information about mobile subscribers, for example the location area where the subscriber is located or is roaming. The VLR also contains information to handle mobile originating and terminating calls. A base station controller BSC is a node that controls various base transceiver stations BTS and performs radio network management. The base transceiver station BTS is the node that handles the radio traffic in any one cell to the mobile stations MS1, MS2, . . . MSn via an air-interface, i.e. communication channel or traffic channel CC1. Such an interconnection of HLR, VLR, MSC and a base station system is also disclosed in DE 44 15 734 C1.

The above passage certainly does not read on "determining bearer limit information associated with said RNC." Nothing in this passage, nor anywhere else in Lopez-Torres discloses "determining bearer limit information" associated with an RNC or BSC. Although responding to the *requested* multicall information may have been disclosed, the step of "determining bearer limit information" associated with an RNC or BSC is not taught nor implied by Lopez-Torres. Claim 2, therefore contains elements not found in Lopez-Torres. Consequently, the Applicant respectfully requests that the §102 rejection be withdrawn.

Claim 3:

Claim 3 states:

3. The method of claim 2, wherein said step of receiving further comprises the step of:
receiving an indication of a maximum number of bearers supported by said user terminal.

The examiner seems to admit that Lopez-Torres does not teach the plain wording of "receiving an indication of a maximum number of bearers", but the examiner

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"interprets 'number of sets of bearer' broadly meaning more than one that reads on 'maximum. Because applicants do not clarify a specific number or some kind of comparison in term of maximum." The Applicant is somewhat confused by this argument.

As the examiner should be aware, claim language using terms of degree is perfectly acceptable – even though the language may not be precise, *Seattle Box Co., v. Industrial Crating & Packing, Inc.*, 731 F.2d 818, 221 USPQ 568 (Fed. Cir. 1984). Acceptability of the claim language depends on whether one of ordinary skill in the art would understand what is claimed, in light of the specification. MPEP 2173.05(b). Although the examiner is free to interpret the claim elements in a broad manner, the Applicant is aware of no rule that forces the Applicant to "clarify a specific number or some kind of comparison in term of maximum." In fact, the Applicant is not aware of any rule that justifies the examiner's reinterpretation of the plain meaning of the claim. **Therefore, the Applicant respectfully requests that the examiner provide specific authority explaining how and why he believes he can impose his own definition to reinterpret the elements of the claims.**

In any event, the Applicant maintains that the word "maximum" means "maximum" and that anyone skilled in the art would know that term "maximum" does not equate to "more than one."

Thus, the Applicant maintains that the claim element of "receiving an indication of a maximum number of bearers supported by said user terminal" cannot be found in Lopez-Torres at col. 12, lines 16-25. The cited passage is reproduced below:

This means that in a method for performing a multi-dialogue communication, the mapping means MP for example first receives a multi-dialogue call set-up request from a subscriber, *containing a number of sets of bearer capabilities* and optionally high layer compatibility information regarding each of the single-dialogues to be performed concurrently, as well as a multi-dialogue call indicator, indicating that a multi-dialogue call is requested.

Nothing in this passage, nor anywhere else in Lopez-Torres discloses anything about "a maximum number of bearers" supported by the user terminal. The above passage simple refers to the number of sets of bearer capabilities for the *requested*

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calls – which is not the same as the maximum number of bearers which can be supported by the user terminal. (The term “bearer capability” commonly refers to a field in an ISDN call setup message that specifies the speed at which data can be transmitted over an ISDN line.³ Thus, the term “bearer capability has nothing to do with multicall capacity.) Claim 3, therefore contains elements not found in Lopez-Torres. Consequently, the Applicant respectfully requests that the §102 rejection be withdrawn.

Claims 4-10, 12-13, 17-19, and 33-34 depend from amended claim 1 and recite further limitations in combination with the novel elements of claim 1. Therefore, the allowance of claims 2-13, 17-19 and 33-34 is respectfully requested.

3.) Claim Rejections – 35 U.S.C. § 103(a)

The examiner rejected claim 11 under 35 U.S.C. § 103(a) as being unpatentable over Lopez-Torres and further in view of Spartz, et al. (US 6,178,337). The Applicant respectfully traverses this rejection.

In response to the Applicant's response of April 29, 2004, the examiner states:

In response to applicant's argument, page 13 claim rejection under 103(a), that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found in either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Lopez Torres and Spartz et. al. are in the same field of endeavor, they are wireless signaling transportation and processing speech calls and data, GSM network, channel management.

The Applicant is once again confused by the examiner's response. First, the Applicant's previous argument does not contain a page 13. Second, the Applicant did not present a motivation argument. This examiner seems to have presented a rebuttal to an argument the Applicant did not make.

³ See the telecom glossary at: <http://www.cnp-wireless.com/glossary.html>;
http://resource.intel.com/telecom/support/documentation/unix/SR50_linux/html_files/gcapi/0387-07-136.html (Attachment 2 and 3)

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In the previous response, the Applicant simply argued that not all elements of claim 11 could be found in the combination of Lopez-Torres and Spartz. The Applicant respectfully requests that this examiner respond to the arguments the actually Applicant made. For the examiner's convenience, this argument is reproduced in the next paragraph:

As discussed above, amended claim 1 contains elements which are not found in Lopez-Torres. As provided in MPEP § 2143, "[t]o establish a prima facie case of obviousness, ... the prior art reference (or references when combined) must teach or suggest all the claim limitations." Furthermore, under MPEP § 2142, "[i]f the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness." It is submitted that the Spartz does not provide the missing claim limitations as discussed above. Consequently, the office action does not factually support a prima facie case of obviousness for claim 11 based on Lopez-Torres. The Applicant, therefore, respectfully requests that this rejection be withdrawn.

4.) New Claim 35

In the examiner's response, the examiner argued that "the features upon which the applicant relies" are not recited in the claims. As stated above, the Applicant disagrees with this statement. In any event, however, the Applicant has explicitly added this feature as new claim 35. The examiner's consideration of new claim 35 is respectfully requested.

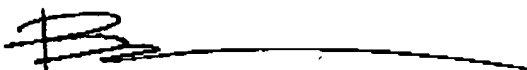
CONCLUSION

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the examiner withdraw all rejections and issue a Notice of Allowance for all pending claims.

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The Applicant requests a telephonic interview if the examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,



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